

## BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

In the Matter of the Application for the )  
)  
the Issuance of an Educator Certificate) )  
)  
to J. Andrew King )  
)

ORDER OF

DENIAL

The South Carolina State Board of Education (State Board) considered this matter on May 12, 2004. On July 11, 2003, the State Department of Education (Department) sent Mr. J. Andrew King a notice of his right to a due process hearing where the Department would recommend the denial of his application for a South Carolina educator certificate (certificate). The notice was sent by certified mail, return receipt requested, delivery restricted to addressee. Mr. King received the notice as evidenced by a postal receipt bearing his signature. Mr. King requested a private hearing, which was held on May 12, 2004, Scott D. Robinson, Esquire represented Mr. King at the hearing. Geraldine H. Urbanic, Esquire, served as legal advisor to the State Board. After considering the evidence presented, the State Board voted to deny Mr. King's application for a certificate. George C. Leventis, Esquire and Shelly B. Kelly, Esquire represented the Department.

At the beginning of the hearing, the Department moved to exclude all witnesses and documents contained in Mr. King's pre-hearing statement because the statement was not delivered to the Department ten days before the hearing as required by State Board Rule of Governance BCAF, *Procedures for Educator Certification Hearings*, Section IV (G). The State Board granted the Department's motion.

## **SUMMARY OF THE CASE**

Mr. King is eligible for an initial certificate. He was under contract with the Oconee County School District (District) for the 2002-2003 school year as a history teacher and assistant football coach at Walhalla High School. Mr. King was placed on administrative leave with pay on December 5, 2003, following an investigation by the District into allegations that he acted inappropriately in the presence of female students and staff. The allegations included that he spoke to some female students and staff in a sexual manner and that he had a sexual relationship with a student at his home, and exposed himself to that student in his classroom. Mr. King resigned from the District on December 19, 2003. Mr. King denied any inappropriate conduct or language. The Department's witnesses were Mike Pearson, District Assistant Superintendent for Personnel, J.M., a former student of Mr. King at Walhalla High School, Rick Pate, former head football coach at Walhalla High School, and Jamie Garland, history teacher and assistant football coach at Walhalla High School. The Department, in spite of the State Board's ruling to exclude all witnesses and testimony based on the Rules of Governance, did consent to the testimony of Mr. J. Andrew King.

Mr. Pearson testified regarding the District's investigation into allegations made against Mr. King. He stated that he met with J.M. and Mr. King separately and in his opinion, based on her demeanor during his interview with her, that J.M. was being truthful when she described instances of misconduct towards her by Mr. King; namely the vulgar comments he made to her at her place of work, the time that he exposed himself to her in his classroom, and the sexual encounter they had at his home. Mr. Pearson stated that during his interview Mr. King repeatedly asked him what would happen if Mr. King did say some of the things he was accused of. Mr. King also asked

Mr. Pearson if he resigned would all of the statements be destroyed. Mr. King also admitted he called J.M. on her cell phone on more than one occasion, including after he had been instructed by Mr. Pearson not to do so. The District gave Mr. King the option to resign or to be terminated. Mr. King elected to resign. Mr. Pearson offered his opinion that Mr. King should not be granted a certificate.

J.M. testified that she had become friends with Mr. King when he asked her to help type tests for his Global History class that she was enrolled in. He also came by the restaurant where she worked and asked for her cell phone number. He told her he would call her some weekend, because his wife went out of town a lot. One weekend he did call her to come over to his house, where they had sex. After the sexual encounter, Mr. King attempted to ignore J.M. Approximately a month after the sexual encounter, when she went to speak with him in his classroom, Mr. King exposed himself to J.M. Another day he made a sexual comment to her at the restaurant when she asked him what he wanted to eat. J.M. is very depressed over the shame and guilt she feels as a result of this incident, and has sought counseling and is taking anti-depressants to help her deal with the impact of her relationship with Mr. King. She feels she was used by Mr. King for his own pleasure and then discarded after he got what he wanted.

Rick Pate testified that he was head coach of the high school football team and that Mr. King served as an assistant to him. Mr. Pate testified that he had to warn Mr. King several times about inappropriate remarks he made to staff members, and for being seen alone in the company of female students. Mr. Pate offered the opinion that Mr. King should not be granted a certificate.

Jamie Garland testified that Mr. King made inappropriate comments to him of a sexual nature and that he also received several complaints from female students that Mr. King made them uncomfortable. He remarked to Coach Pate at one football game where Mr. King was dressed in street clothes that he (King) must be going out with J.M. He was asked by the principal to counsel Mr. King against being alone with female students, and to mentor him since Mr. King was a first year teacher.

Mr. King testified that he had strict rules against being alone with female students. He denied having sex with J.M., exposing himself to her, or speaking to her in a sexual manner. He said she was the instigator of all conversation and that she made sexually oriented comments to him. After he admonished her for attempting to begin an inappropriate relationship with him, Mr. King testified that rumors began circulating about a relationship between he and J.M. Mr. King stated that he initially got J.M.'s cell phone number to check on her sister's health. He called her after he was warned not to because he thought she would be truthful with him about what she told the administrators who questioned her. He asked Mr. Pearson what possible actions might be taken against him, if he did make some of the alleged remarks. Mr. Pearson told him that if he resigned that would end the matter.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

"The South Carolina Board of Education, by rules and regulation, shall formulate and administer a system for the examination and certification of teachers." S.C. Code Ann. § 59-25-110 (2004). "The State Board of Education has the authority to deny, revoke, or suspend a teaching credential for the following causes: ...Immoral or unprofessional conduct." 24 S.C. Code Ann. Regs. 43-58 (2004). Based on the testimonial and documentary evidence presented by the Department, the State Board

finds that Mr. King engaged in a an immoral unprofessional relationship with J.M. and that he failed to comply with an administrative directive not to have any further contact with her. For these reasons, the State Board finds that there is substantial evidence to support its decision to deny Mr. King's application for an educator certificate.

South Carolina State Board of Education

By: /S/ Mary E. Jones

Dr. Mary E. Jones

Chair

Columbia, South Carolina

May 11, 2004